THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

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AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT APPEAL No.1156 OF 2005

4th October, 2005

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Between:

Ramesh Gupta ….Appellant.

AND

Ch.Ravinder Rao & others …Respondents.

ORAL JUDGMENT: (per Hon'ble Sri Bilal Nazki, the Acting Chief Justice)

The writ appeal has been filed against the order passed by the learned single Judge in Writ Petition No.19246 of 2004. The writ petitioner filed the writ petition seeking direction to respondents 1 to 4 to take steps to fill eight posts of Additional Public Prosecutors in the Courts of Additional District Judges and Subordinate Courts in Ranga Reddy District. It appears that there were two panels. The Government called for panel from the District & Sessions Judge, Ranga Reddy District. A panel of seven Advocates vide letter dated 18-9-2003 for appointment to the post of Additional Public Prosecutor was sent by the District Collector in consultation with

the District & Sessions Judge. The Government examined the panel of seven Advocates sent by the District Collector, but returned it back saying that it should have only five names initially. Then again, the District Collector, vide letter dated 3-7-2004 requested the Principal District & Sessions Judge to sponsor a fresh panel of five Advocates. The District & Sessions Judge, accordingly, vide letter dated 5-8-2004 furnished to the District Collector the names of five Advocates for appointment as Additional Public Prosecutors. This panel was also not considered by the Government on the ground that the name of one Scheduled Caste candidate Sri Egala Suresh who was in the list of seven Advocates in the first panel was ignored and as such the rule of reservation was not followed. Thereafter, after some communication, the Principal District & Sessions Judge, on 11-10-2004, has sent another panel of seven Advocates for being appointed as Additional Public Prosecutors.

The learned single Judge directed to fill the posts of Additional Public Prosecutors for the Court of I Additional District & Sessions Judge, Ranga Reddy District, which was designated as Metropolitan Sessions Judge's Court, Cyberabad, and the Courts of III, IV and V Additional District Judges (Fast Track Courts), and the Courts of Principal Assistant Sessions Judge, Ranga Reddy District, III and IV Additional Assistant Sessions Courts (Fast Track Courts) within a period of six weeks from the date of receipt of a copy of the order. The Additional Public Prosecutors should be appointed from the panel of Advocates sent by the District Collector on 18-9-2003.

The appellant is aggrieved by the order passed on various grounds. The respondents, on the other hand, contend that writ appellant was not eligible even for appointment as he had served two terms and in accordance with the rules he is not entitled to be appointed for a third term. However, the appellant submits that there is no such rule and a person is appointed for a third term if his work has been satisfactory in the earlier terms.

We are surprised to see such a type of litigation by the Advocates who solicit the work, through writ petition, which is otherwise barred under the Advocates Act. It is none of the job of the Advocates to pursue themselves and impress themselves on their prospective clients, as they are Advocates. The Government has the choice to appoint Advocates as Additional Public Prosecutors of its choice. For the appointment of Public Prosecutors, procedure is laid down under Section 24 of the

Code of Criminal Procedure and the District & Sessions Judge and the Collector are the competent persons to make the panel of Advocates, who, according to them, are suitable to hold the posts of Public Prosecutor and Additional Public Prosecutor. It is none of the business of the Advocates to either apply for such jobs or solicit such jobs. Since the last panel in this case has been prepared on 18-9-2003 and more than two years have passed, we feel that it would be appropriate if a fresh panel is prepared by the learned District & Sessions Judge and the District Collector, as within a period of two years many other lawyers would have got the attention of the learned Sessions Judge, who might have improved in their profession. Therefore, we modify the order in the writ petition and direct the District & Sessions Judge and the District Collector, Ranga Reddy District to make a fresh panel within a period of one month and the Government is directed to make appointment within a period of six weeks from today as the working of the Courts is suffering because of non-availability of Public Prosecutors. The District Collector and the District & Sessions Judge shall disqualify the Advocates who in any way approach them for being included in the panel.

The writ appeal is accordingly disposed of.

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(BILAL NAZKI, ACJ)

4th October 2005.

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(R.SUBHASH REDDY, J.)

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